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REPORT OF THE SELECT COMMITTEE

Appointed to consider a Regulation (No. of 1884) to consolidate and amend the Law relating to Revenue Officers and the Land Revenue in the Territories of Mysore.

2. The Committee beg to premise their report by stating that, while studying the Regulation, they have had before them the opinions of the leading Judicial and Revenue authorities of the Province, as well as those of a large number of officers and other persons consulted. To all these opinions, from whatever source, the fullest consideration has been given and in many instances suggestions have been adopted and, generally, the opinions put forward have been found very useful. The safe and proved lines of the Bombay Land Revenue Code, upon which the present Regulation is based, have been departed from only where the peculiar circumstances of the Mysore Province, comprised in existing law, practice and tenures, which after all differ very little from those of Bombay, absolutely call for such departure. The copy of the Draft Code accompanying this Report shows "*literatim*" the Code as amended by the Committee who now, as briefly as possible, note and endeavour to substantiate the additions and alterations they have recommended.

CHAPTER I.

(PRELIMINARY.)

Section 3.

3. In Section 3, the interpretation Clause, the Committee consider that by adding to Clause (19) in the 4th line after the word "partially," the words " or on fixed assessment," so as to extend the application of the clause in question to Kayamgutta villages, Clauses (20) and (21) may be omitted. In Clause (23) of the same section March has been substituted for July, and in Clause (26) the definition of "Village Accountant" being considered superfluous has been omitted. This last definition moreover has no place in the Bombay Land Revenue Code.

CHAPTER II.

(*Constitution and Powers of Revenue Officers.*)

Section 4.

4. Section 4 the Committee would alter so as to obviate the inconvenience of defining the powers of the Commissioner in a schedule.

Sections 6, 7, 8 and 9.

Sections 6, 7, 8 and 9 it is proposed to add to, so as to meet the case of a Sub-Division and a Sub-Division Officer peculiar to Mysore, and also to distinguish between an Assistant Commissioner in his capacity of Sub-Division Officer and as merely an Assistant Commissioner to whom particular duties have been assigned by the Deputy Commissioner as a temporary measure.

Section 17 (1.)

5. In Section 17 (1) a rather important alteration is proposed, the effect of which is to limit the number of village accounts to be kept by the holder of an alienated village to such as Government may consider absolutely necessary. The Committee think it would be a mistake to insist upon the preparation of the complete set as in Government villages ; nor indeed, excepting in rare instances, do the data, necessary to the filling up of some of the forms, exist in alienated villages. This section moreover has no place in the Bombay Land Revenue Code, and it is believed that in Madras the practice is in accordance with the modification now proposed by the Committee.

Section 21.

6. To Section 21 the "Commissioner" has been added as one of the officers who shall appoint all the members of their establishments, while the " Deputy Superintendent of Survey" and the "Survey Settlement Officer" have been omitted. A proviso has been added to the section in question, to admit of Government extending the power of appointing the members of their establishments to some other officers also, as the Committee think it not unlikely that Government may be asked to decide upon such claims, or ambition, on the part of officers not mentioned in the section. The 2nd sub-division of Section 21 has, it will be seen, been materially altered, the object the Committee had in view being to provide for Shekdars and other subordinate officers who, in the section as it stood, would have remained unenacted for.

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CHAPTER III.

(On the Security to be furnished by certain Revenue Officers and Liability of Principals and Sureties.)

Section 23. 7. To Section 23 the words "by a bond" have been added in the 11th line as making the meaning clearer.

Section 24. 8. As regards Section 24 the Committee consider that one month is not sufficient time to allow for a Revenue officer to provide fresh or additional security, and one month is therefore made the minimum, the extension of the period being left to the discretion of the Deputy Commissioner or Survey Superintendent.

Section 25. 9. Section 25, sub-division 2, will be less harsh with the words "or show sufficient cause for not doing so" interpolated after the word "directed" in the 3rd line.

Section 26. 10. The Committee consider it unnecessary, as being too vague and possibly mischievous, to enact that every person knowing where property of the kind alluded to in Section 26 is concealed shall be bound to give information of the same to the Deputy Commissioner, and accordingly the 2nd sub-division of the section in question has been so far altered.

CHAPTER IV.

(Of certain Acts prohibited to Revenue Officers and of their Punishment for Misconduct.)

Section 31. 11. The Committee consider that the permission under Section 31 should be given by Government alone and not by either the Deputy Commissioner or Superintendent of Survey.

A proviso exempting Village officers and Revenue officers under the grade of Shekdar from the prohibitions laid down in Clauses (1) and (2) of Section 31 is considered necessary. It would be hard to prevent such officers from engaging in trade or from making *bonâ fide* bids at auction, unless such officer himself happened to be the auctioneer.

Section 35. 12. Section 35 is considered superfluous, the chapter on appeals sufficing to meet the cases alluded to in the former.

CHAPTER V.

(Of Land and Land Revenue).

Section 40. 13. Section 40 has been altered so as to enact for the case of unalienated land only. The Bombay Land Revenue Code does not go further than this. The Committee quite recognize the desirability of asserting the right of Government to minerals, whenever the opportunity offers, and find some difficulty in showing that the present opportunity is not just as favorable for the assertion of that right in alienated as in unalienated lands. The question, however, of the existence or otherwise of the Royal prerogative in respect to mines and mineral products is a wider one and fraught with more importance when applied to alienated lands, and the Committee simply recommend leaving the question where it is at present and not declaring by legislation one way or the other. When the question, as to the right of the State to minerals in these alienated lands, arises, it will be time enough to decide it on more careful enquiry as to practice and precedent, than has yet been carried out. It may here be remarked that it is very improbable that any grant or other instrument of transfer executed by Government would be found other than silent as to mining rights. Section 69 of the Bombay Land Revenue Code has therefore been adopted with the retention however of the provisional clauses in the Draft of the Mysore Land Revenue Code.

14. Section 42 has been altered so as to obviate disputes between the villagers regarding grazing, such as would undoubtedly arise were the use of pasturage to be confined exclusively to the villagers of the village to which the lands belong or have been assigned. In Mysore the use of pasturage, in free pasturage land, has always been regulated by what is known as "Mámúl," a practice from which the Committee think it would be unwise to depart.

Section 42.

15. Section 45 of the Draft Code has been struck out in favor of Section 40 of the Bombay Land Revenue Code, which is more in accordance with the actually existing ruling in Mysore. Thus, for instance, Section 45 of the Draft Code embodies the obsolete rule regarding the exercise of the forest rights to reserved trees within two years of the settlement; whereas, as a matter of fact, all reservations of trees are made at the settlement once for all under the authority of Chief Commissioner's order No. 1796-1810—345, dated 6th August 1879. Section 40 of Bombay Land Revenue Code is complete and will, with the alterations made, fully meet the state of things in Mysore.

Section 45.

Sections 43 and 44 of the Draft Code serve the purpose of Section 41 of the Bombay Land Revenue Code and are allowed to stand; moreover the enumeration of the 9 descriptions of reserved timber in the Draft Code is considered desirable, which the Bombay Land Revenue Code does not contain.

Sections 43 and 44.

16. The 2nd sub-division of Section 48 regarding road side trees has been struck out as unnecessary and likely to give rise to groundless and vexatious applications.

17. The Committee consider the levy of the bare value of the tree, in a case where there is no question of encroachment on land, provided for in Section 49 as a punishment for unauthorized appropriation, quite insufficient. The power of imposing a summary fine, in addition, up to Rs. 50, has therefore been provided for.

Section 49.

18. The proposal by the Committee to omit that portion of Section 50 which reserves the power of Government to direct by law the levy of revenue on all lands whenever and so long as the exigencies of the State may render such levy necessary is based upon the ground that there is no object in declaring that right in the present enactment.

Section 50.

19. The Committee have added a Proviso to Section 59 based upon Section 134 of the Oudh Land Revenue Act No. XVII of 1876, not to mention the existing practice in Mysore, which they think will guard against any misuse of the powers conferred under the section in question.

Section 59.

20. The Committee have, with some diffidence, removed from Section 61, sub-division 2, the provision for compulsory countersignature of receipts by the Village Accountant. Holders of alienated villages are loud in their protests against the provision in question, stating that very often there is no Village Accountant at all and that, where there is one, the mere fact of rendering his countersignature necessary would give him undue power to annoy the superior holder, not to mention the general inconvenience of his very frequent absence just when he is wanted. The Committee are quite aware of the advantage of having Village Accountants in alienated villages, but they are also aware of the very great difference between holders of many villages, such as a jahgir for instance, and the holder of a single and perhaps small village: the former have to employ and be dependent upon their Shanbhogs, but the latter would be put to great inconvenience if not allowed to manage his own affairs.

Section 61.

CHAPTER VI.

(Of the Occupancy of Unalienated Land and the Rights of Occupants).

21. Section 75 has been assimilated to Section 72 of the Bombay Land Revenue Code. The specification of Hindu, Muhammadan and Buddhist was, in the latter, intentional, owing to the application of the Succession Act. As the same reason holds good in Mysore, the section has been altered accordingly.

Sections 72 and 75.

CHAPTER VII.

(Of Superior and Inferior Holders).

22. Very material changes are proposed in this Chapter, which will be best understood from the copy of the Draft appended. What the Committee have done has been to discard the classification into "Kandayam Tenant" and "Occupancy Tenant" and to substitute for the former "Kadim Tenant," the enactments in behalf of the "Kandayam Tenant" as drafted in the Code being but little altered for the "Kadim Tenant."

23. The definition of a "Kadim Tenant" in the 4th sub-division of Section 85 has been assimilated to Section 245, it being necessary to declare not only the rights but also the responsibilities of a "Kadim Tenant." The Committee also consider it advisable that both rights and responsibilities under this section should be enforced by the Deputy Commissioner alone, and they have added the necessary provision to the section.

Section 85.

"Occupancy Tenant" finding no place in this Chapter, Section 83 of the Bombay Land Revenue Code has been introduced as a very necessary definition of tenant's rights generally. Its provisions contain what may be called the presumptive clause of duration of tenancy as against the land-lord, the effect of which will be to practically throw the "*onus probandi*" on the latter in case of dispute. It also declares the right of the land-lord to enhance the rent according to local usage, or otherwise, if such right fairly belongs to him, or to evict for non-payment of rent.

24. The reasons which have influenced the Committee in arriving at an opinion which excludes "Occupancy ryots" altogether from the enactment may be briefly summed up as follows :—

The status which the original draft confers on an occupancy ryot is not in any way based on the state of things at the time of the passing of the village from the hands of Government to those of the alienee, which is the broad principle which, the Committee think, should alone regulate the present enactment regarding the relations of land-lord and tenant. Had the Committee proposed to retain the sections relating to an "occupancy tenant," they would have also proposed to make his rights heritable *and* transferable property, subject probably to the right, in the latter case, of pre-emption on the part of the superior holder. The superior holders know perfectly well what a "Kadim Tenant" is, and the status which it is now sought by the Committee to confer upon him by legislation, is quite well understood, and, in the case of such a tenant, the objections of the superior holders are disarmed of the strong argument very freely used, that they brought the cultivators to the village, in fact that they are their own ryots. But the acquisition by a tenant of occupancy rights, under Section 86 of the Draft Code, is viewed with the most lively alarm and dissatisfaction, especially if those rights are to be made transferable. It is believed by the Committee that one of the chief objections on the part of the superior holders to any enactment in favor of occupancy tenants lies in the terms, peculiar to Mysore, under which the tenant cultivates both dry and wet lands of the superior holder. The tenant holds, very often, his dry lands at a low money rate, on condition that he cultivates the wet land also, receiving a certain share of the produce; if he objected to cultivate the wet lands, the superior holder would probably object to his holding the dry land, at any rate on favorable terms. The superior holder, for the above reason, dreads the acquisition of occupancy rights which would put the tenant beyond his control, or make him in any way independent, as regards the dry lands. No doubt the superior holder would like to see the ancient tenant equally dependent upon him, but the rights of the "Kadim Tenant" are so palpable that little or no objection was made, when the Committee gave a hearing to a very large number of maandars on the 21st ultimo, to his getting the status contemplated; while, as regards the intended "Occupancy Tenant," there could be no mistaking the strong and genuine feeling of opposition to the contemplated enactment.

Section 86.

25. A broad and general distinction between ancient and modern tenants, leaving the rest to the ordinary courts, is all that in the opinion of the Committee should be enacted. When the Bombay Land Revenue Code was first introduced on the 28th January 1875, it contained almost precisely the lines now suggested by the Committee but so complex were the relations considered to be between land-lord and tenant, that the Land Revenue Code, as now law, does not go nearly so far as the original draft. Precise legislation on definite points between the two classes is not in the opinion of the Committee either advisable or necessary, nor is anything of the kind provided for either in Bombay or Madras.

Section 85. 26. As regards Para 87 the amended definition of "Kadim Tenant" in Section 85 and the omission of "Occupancy Tenant" renders its retention unnecessary.

Section 88. 27. In Section 88 the words "or forfeiture of tenure" have been added after the words "voluntary relinquishment" to meet the possibility of such cases arising.

Section 89. 28. To Clause (*a*) of Section 89 the words "or revision survey under Section 123" have been added.

Section 92. 29. In Section 92 which deals with enhancement or abatement of rent by the Deputy Commissioner in the case of a "Kadim Ryot", such decision has been made final, on a recommendation supported by the Chief Judge.

Section 93. 30. A very important proviso has been added to Section 93 to provide for the relations of Múlvargdars and Múlgenidars. The proviso will speak for itself, but the Committee may state that they are aware of the existence of such cases in Mysore and that legislation is strongly recommended by the High Court of Bombay (See Indian Law Reports 4, Bombay, para 473) as the only way to remedy the grievances of the Múlvargdar. See also on this question Section 29 of the North-Western Provinces' Rent Act XII of 1881.

Section 101. 31. To Section 101 very considerable additions have been made which will fully explain themselves.

Section 111. 32. The Committee have added an important saving clause after Section 111, qualifying the whole of Chapter VII.

Section 119. 33. A slight alteration has been made in Section 119 by substituting for the words "cultivated with coffee" the words "held on coffee tenure" so as to extend the application of the section to lands cultivated with cardamoms.

Section 121. 34. Section 121—The Committee propose to omit the first sub-division which would only perpetuate a procedure which was advisedly made obsolete in Mysore long ago. The second sub-division is scarcely necessary in Mysore where the rates always take effect in the year after they are announced, and the occupant has plenty of time to consider what he should do as to retaining his land or not.

Section 124. 35. The Committee consider that in Section 124, which applies entirely to revised assessments, Clauses (*b*) and (*c*) should be omitted. There has only very lately been published a Resolution of the Bombay Government which takes a favorable view of eliminating the clauses in question from Section 107 of the Bombay Land Revenue Code. Clause (*c*) the Committee have no hesitation in recommending to be struck out; but, as regards Clause (*b*), although the members are unanimous in suggesting its omission, the motives which actuate them are different, two of their number basing their recommendation on principle, while the third member does so entirely as a matter of expediency and concession applicable to a particular case.

Section 141. 36. In Section 141 the officers who may summarily enquire into cases of injuring boundary marks have been limited to the Deputy Commissioner and Survey officers of not less rank than an Assistant Superintendent; while the words "or unauthorizedly erecting a boundary mark," such a case having actually occurred, has been added after the word "boundary mark" in the 5th line.

CHAPTER X.

(Of Lands within the Sites of Villages, Towns and Cities).

37. This Chapter has been recast very much on the lines of Bombay Act IV of 1868, under which, it may be remarked, no city survey or inquiry has ever yet been carried out in Mysore. The prosecution of city surveys is quite a question for the future. The Chapter, as now altered and modified, provides for the institution of a city survey and inquiry at any time Government may deem fit, and for the regulation of its operations. The limit of 5 years as the term of possession to acquire prescriptive right is not deemed too liberal by the Committee.

CHAPTER XI.

(On the Realization of Land Revenue and other Revenue Demands).

38. A proviso has been added to Section 158 for the immediate sale of perishable articles.

Section 158.

39. It will be seen that Section 172 has been considerably altered in the text and almost entirely in spirit. For the section, even in its amended form, only two of the Committee are answerable, one of their number, Mr. Krishna Rao, having, from the first, consistently opposed the retention in any form whatever of the imprisonment clause as it has already come to be spoken of in Mysore, so much attention has it attracted. In this view he is supported by almost all the local and other officers who have been consulted, that is to say, so far as objecting to the section as it stands at present in the Draft Code is concerned. The Committee obtained information that in the Southern Division of the Bombay Presidency the section had never once been put in force since the passing of the Bombay Land Revenue Code. Premising, then, that this is only the opinion of two of the Committee, the section as it stands is considered almost useless if it is to be put in force against any but wilful or fraudulent defaulters. To employ its power against what may be called an honest defaulter, only when all the other methods of recovery have failed, is very illogical.

Section 172.

That the power conveyed by the section has not been used in Bombay is no proof however that it has not done good or that it should entirely be dispensed with, as the knowledge that the power existed probably deterred the very kind of defaulters it is now proposed to retain it against.

In almost all the Provinces throughout India some such power of imprisonment is provided for, in the Punjab it being the very first mode of recovery laid down. The section as now amended is taken from the Madras Code. One of the Committee considers it likely to cause mischief, if retained in any shape at all; the other two Members consider that it is no more likely to cause mischief than most other measures which have to be adopted in protection of State and social interests, and moreover the defaulter can always obtain stay of proceedings, so far as this Regulation is concerned, under Section 179. In the opposite view of this question it is urged that imprisonment for private debts may not impossibly soon become a thing of the past which would make the present enactment in behalf of State debts all the more untimely.

Section 179.

In the 2nd proviso to Section 172 exemption from arrest of females has been newly provided for.

Section 172.

40. The Committee, supported in their opinion by almost all the officers consulted, have provided in the 4th sub-division of Section 177 for making over the *whole* of the surplus receipts to the superior holder on restoration of the village after attachment.

Section 177.

41. Similarly supported the Committee have provided in Section 184 for the stay of sale if the defaulter pay arrears, or furnish security, under Section 179, any time before the property is knocked down.

Section 184.

42. In Section 192 notification of re-sale has been rendered unnecessary if the re-sale take place within 7 days from the date fixed for the original sale. The Committee think that this will save a great deal of unnecessary work.

Section 192.

CHAPTER XIV.

(Revenue Jurisdiction.)

43. Section 230, on the bar of certain suits, and especially the proviso Clause (*i*) and its illustrations represent a very difficult piece of legislation, but the Committee accept the section as it stands with the addition however of the illustration in the corresponding section of the Bombay Jurisdiction Act, omitted in the Draft Code now under report. Clause (*j*) has been altered. "An instrument or sanad given by or by order of the Government" seems too vague a definition and moreover it is not taken in its entirety from the Bombay Jurisdiction Act. The Committee prefer the insertion, instead,

Section 230.

of the words "Any other written grant by the Mysore Government subsequent to 1832, expressly creating or confirming such exemption." Clause (*f*) has been excluded in consideration of the saving clause added to Chapter VII and the modifications made in Sections 92 and 101.

Section 231.

44. In Section 231, Clause (*a*) has been omitted as being, in the opinion of the Committee, out of place in an enactment of this kind. The remedy, in such cases as are cited in Clause (*a*), is often at once applied by the Revenue authorities on representation, and if no redress is obtained by the aggrieved party, he can then go to the courts. The retention of the clause is almost an invitation to the ryots to ignore the Revenue authorities and bring every petty case before the civil courts and sometimes probably with the intention of annoying or injuring Government officers.

Section 231.

For the above reasons and for those given in the preceding para the whole of Section 231 is recommended to be omitted.

General.

45. The idea was at one time entertained by the Committee of introducing the greater part of the Bombay Hereditary Offices' Act into this Regulation, but on consideration of the advisability of introducing the latter without much delay and knowing that the Hereditary Offices' Act would require very careful studying, they have determined to recommend its introduction later on as a separate Act.

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MYSORE,
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